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15 Attorneys for Petitioner Eliot Scott Grizzle

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA

18 ELIOT SCOTT GRIZZLE,

19 Petitioner,

20 v.

21 ROBERT HOREL,

22 Respondent.

Case No. C 07-4845 SI

**NOTICE OF MOTION AND
MOTION TO REOPEN ACTION
AND LIFT COURT'S STAY**

23 PLEASE TAKE NOTICE that petitioner, Eliot Scott Grizzle, will ask the Court to enter an
24 order granting the motion listed below.
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MOTION

Petitioner, Eliot Scott Grizzle, pursuant to the United States Constitution, and all other applicable statutes, case law and rules, hereby moves the Court for an order reopening this action, lifting the Court's stay, and proceeding with consideration of this habeas corpus petition.

This motion is based upon the instant motion and notice of motion, the attached statement of facts and memorandum of points and authorities, and any and all other materials that may come to the Court's attention at the time of the hearing on this motion.

Respectfully submitted,

s/Benjamin L. Coleman, Ethan A. Balogh
COLEMAN & BALOGH LLP
BENJAMIN L. COLEMAN
ETHAN A. BALOGH

Dated: December 5, 2007

Attorneys for Mr. Grizzle

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

ELIOT SCOTT GRIZZLE,

Petitioner,

v.

ROBERT HOREL,

Respondent.

Case No. C 07-4845 SI

**STATEMENT OF FACTS AND
 MEMORANDUM OF POINTS
 AND AUTHORITIES IN SUPPORT
OF PETITIONER'S MOTION**

On October 18, 2007, the Court issued an order granting the motion of petitioner, Eliot Scott Grizzle, to stay and abey his habeas corpus petition pending resolution of his petition for review in the Supreme Court of California. The Court also ordered Mr. Grizzle to file the instant motion within thirty days of exhausting his claims in state court. On November 14, 2007, the Supreme Court of California denied Mr. Grizzle's petition for review. As a result, Mr. Grizzle requests that the Court lift the stay and proceed with consideration of his petition. Mr. Grizzle will file in short order a memorandum of law in support of his petition and a motion for discovery.

Respectfully submitted,

Dated: December 5, 2007

s/Benjamin L. Coleman, Ethan A. Balogh
 COLEMAN & BALOGH LLP
 BENJAMIN L. COLEMAN
 ETHAN A. BALOGH
 Attorneys for Mr. Grizzle

PROOF OF SERVICE

I, the undersigned, say:

1) That I am over eighteen years of age, a resident of the County of San Diego, State of California, and not a party in the within action;

2) That my business address is 433 G Street, Suite 202, San Diego, California, 92101;

3) That on December 5, 2007, I served a copy of the attached Motion on counsel for respondent by e-mailing a copy to Jill.Thayer@doj.ca.gov and by sending a copy via U.S. Mail to Jill M. Thayer, Deputy Attorney General, 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

4) That on December 5, 2007, I served a copy of the attached Motion on Eliot Scott Grizzle via U.S. Mail by sending a copy to Eliot Scott Grizzle, H-10106, Pelican Bay State Prison, P.O. Box 7500, Crescent City, CA 95532.

I certify under penalty of perjury that the foregoing is true and correct. Executed on December 5, 2007, at San Diego, California.

s/Benjamin L. Coleman
BENJAMIN L. COLEMAN